

Notice of Allowability

Application No.

10/004,988

Examiner

Kuen S. Lu

Applicant(s)

CULP ET AL.

Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendments Applicant filed 10/31/2007.
2. ☒ The allowed claim(s) is/are 46-90 (renumbered to 1-45).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

0. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

1. This communication is responsive to Applicants' Amendments filed October 31, 2007.

After a thorough search and examination of the present application, a further review of Applicants' Remarks filed October 13, 2006, April 20, 2007, October 3, 2007 and October 31, 2007, and in light of prior art made of record, Claims 46-90 (renumbered to 1-45) are allowed.

Examiner's Amendments

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this Examiner's Amendments, listed below was given on October 3, 2007 in a telephone interview with Mr. Ryan S. Loveless (Registration: 51,970).

3. Please amend claims 1-45 as follows:

1-45 (Canceled)

Reason for Allowance

4. The following is an examiner's statement of reasons for allowance:

In the Office Action for non-Final Rejection of dated July 13, 2006 (hereafter "the Action"), Examiner's 35 U.S.C. § 103, rejection was primarily based Amaratunga et al.: "SYSTEMS AND METHODS FOR MAKING PREDICTION OF ENERGY CONSUMPTION OF ENERGY-CONSUMING SYSTEMS OR SITES", U.S. Patent Application Publication 2003/0061091, hereafter "Amaratunga"; and in view of Ehlers et al.: "ENVIRONMENTAL CONDITION CONTROL AND ENERGY MANAGEMENT SYSTEM AND METHOD", U.S. Patent 6,216,956, hereafter "Ehlers".

In the response filed on October 13, 2006 to the Action, Applicants mainly argued that Amaratunga and Ehlers, even when combined, fail to disclose, expressly or inherently "the control engine further operable to modify a variable rate of energy consumption data collection at the facility in response to a predetermined event; and the analysis engine further operable to analyze the predetermined event based on a first subset of the energy consumption data obtained before the predetermined event and a second subset of the energy consumption data obtained after the predetermined event."

During the follow up prosecution of the application ever since, Applicants continued arguing that the following or its equivalent is distinctive from prior art.

**determine, based on the collected energy consumption information,
whether a predetermined event has occurred;**

**if a predetermined event has not occurred, process the energy
consumption information collected at the predetermined rate to one or more**

reduced storage intensive values representing energy consumption information for a period of time.

After a thorough search for the prior art conducted on EAST database and domains (NPL-ACM, Google, NPL-IEEE) and a detailed examination of the search results, Examiner is persuaded that the prior art searched and made of record does not fairly teach the same subject matter as described above in each of the independent claims 46, 59, 72, 81 and 90.

Claims in the groups (47-58), (60-71), (73-80) and (82-89) respectively depend upon claims 46, 59, 72 and 81 directly or indirectly, also distinct from the prior art for the same reason.

5. Any comments considered necessary by Applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Contact Information

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kuen S. Lu whose telephone number is (571)-272-4114. The examiner can normally be reached on Monday-Friday (8:00 am-5:00 pm). If attempts to reach the examiner by telephone pre unsuccessful, the examiner's Supervisor, John Cottingham can be reached on (571)-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-

Art Unit: 2167

273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for Page 13 published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-27-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, please call 800-786-9199 (IN USA OR CANADA) or 571-272-1000).

Kuen S. Lu 

Patent Examiner, Art Unit 2167

November 13, 2007